



07-31-02

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## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

A. Martin Lerner

Serial No.: 10/060,159

Group Art Unit: 1617

Filed: January 30, 2002

For: METHOD FOR DIAGNOSING AND ALLEVIATING THE SYMPTOMS OF  
CHRONIC FATIGUE SYNDROME

Attorney Docket No.: LMA 0113 PUS1

**REPLY TO DECISION DISMISSING PETITION  
AND RENEWED PETITION UNDER 37 C.F.R. § 1.182**Box DAC  
Commissioner for Patents  
United States Patent and Trademark Office  
Washington, D.C. 20231

08/02/2002 SLUANG 00000002 023978 10060159

01 FC:122 130.00 CR  
Adjustment date: 08/12/2002 AKELLEY  
08/02/2002 SLUANG 00000002 023978 10060159  
01 FC:122 130.00 CRRECEIVED  
AUG 05 2002  
OFFICE OF PETITIONS

Applicant respectfully requests reconsideration of the Decision Dismissing Petition mailed on July 17, 2002. As stated in that decision, Applicant's petition filed on May 10, 2002 was dismissed because drawing sheet 2/2 (containing Figures 3 and 4) mailed with the petition was damaged during the USPS mail decontamination process.

In its decision, the Office has stated that Figures 3 and 4 can be re-submitted so that Applicant's petition can be given further consideration. Therefore, Applicant encloses herewith copies of the following documents in order to renew its petition:

- (1) Copy of the Office's Decision Dismissing Petition;
- (2) Copy of Missing Parts Transmittal Letter mailed May 1, 2002;
- (3) Copy of Notice of Omitted Item(s) in a Nonprovisional Application;

## CERTIFICATION UNDER 37 C.F.R. § 1.10

I hereby certify that this paper, including all enclosures referred to herein, is being deposited on the below date with the United States Postal Service in an envelope as "Express Mail Post Office to Addressee," Express Mail No. EV011639315US, postage pre-paid, addressed to: Box DAC, Commissioner for Patents, U.S. Patent and Trademark Office, Washington, D.C. 20231 on:

July 30, 2002  
Date of DepositCatherine Nikkila  
Name of Person Mailing PaperCatherine Nikkila  
Signature of Person Mailing PaperThe PTO did not receive the following  
listed item(s) check 130.00

EV011639315US

- (4) Copy of initial Petition Under 37 C.F.R. 1.182; and
- (5) Drawing sheet 1 of 2 (containing Figures 1a-1d and 2) and drawing sheet 2 of 2 (containing Figures 3 and 4).

Since a check in the amount of \$130 to cover the petition fee was enclosed with the initial Petition filed on May 1, 2002, the fee has not been re-submitted here.

In light of the attached documents, Applicant requests that the petition and application be reconsidered. If the Examiner has any questions or concerns, he may contact the undersigned directly.

Respectfully submitted,

A. Martin Lerner

By: 

Sangeeta G. Shah

Reg. No. 38,614

Attorney/Agent for Applicant

Date: July 30, 2002

**BROOKS & KUSHMAN P.C.**

1000 Town Center, 22<sup>nd</sup> Floor

Southfield, MI 48075

Phone: 248-358-4400

Fax: 248-358-3351



THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

A. Martin Lerner

Group Art Unit: 1617

Examiner: Unknown

Serial No.: 10/060,159

Filed: January 30, 2002

For: METHOD FOR DIAGNOSING AND ALLEVIATING THE SYMPTOMS OF  
CHRONIC FATIGUE SYNDROME

Attorney Docket No.: LMA0113PUS1

**MISSING PARTS TRANSMITTAL LETTER**

Attention: Box Missing Parts  
Commissioner for Patents  
United States Patent and Trademark Office  
Washington, D.C. 20231

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AUG 05 2002  
OFFICE OF PETITIONS

Sir:

Enclosed with reference to the above matter are the following documents:

1. Copy of the Notice of Omitted Item(s) in a Nonprovisional Application;
2. Petition Under 37 C.F.R. § 1.182;
3. Drawing sheet 1 of 2 (containing Figures 1a-1d and 2) and drawing sheet 2 of 2 (containing Figures 3 and 4); and
4. Check in the amount of \$130 representing the petition fee.

**CERTIFICATE OF MAILING UNDER 37 C.F.R. § 1.8**

I hereby certify that this paper, including all enclosures referred to herein, is being deposited with the United States Postal Service as first-class mail, postage pre-paid, in an envelope addressed to: Attention: Box Missing Parts, Commissioner for Patents, United States Patent and Trademark Office, Washington, D.C. 20231 on:

May 1, 2002  
Date of Deposit

Sangeeta G. Shah  
Name of Person Signing

*Sangeeta G. Shah*  
Signature

The Commissioner is hereby authorized to charge any additional fees or credit any overpayments to our Deposit Account No. 02-3978. A duplicate of this Transmittal Letter is enclosed for that purpose.

Respectfully submitted,

A. Martin Lerner

By: 

Sangeeta G. Shah

Reg. No. 38,614

Attorney/Agent for Applicant

Date: May 1, 2002

**BROOKS & KUSHMAN P.C.**

1000 Town Center, 22nd Floor

Southfield, MI 48075

Phone: 248-358-4400

Fax: 248-358-3351



UNITED STATES PATENT AND TRADEMARK OFFICE



COMMISSIONER FOR PATENTS  
UNITED STATES PATENT AND TRADEMARK OFFICE  
WASHINGTON, D.C. 20231  
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Paper No. 4

SANGEETA G. SHAH  
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1000 TOWN CENTER  
SOUTHFIELD MI 48075-1351

COPY MAILED

JUL 17 2002

OFFICE OF PETITIONS

*Den: 9-17-02*

In re Application of :  
A. Martin Lerner : DECISION DISMISSING  
Application No. 10/060,159 : PETITION  
Filed: 30 January, 2002 :  
Atty's-Encket-Nov LMA 0413 PUS1

This is a decision on the petition filed on 10 May, 2002, requesting that the above-identified application, including Figures 3 & 4, be accorded a filing date of 30 January, 2002.

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AUG 05 2002

The petition is **DISMISSED**.

OFFICE OF PETITIONS

On 30 January, 2002, the application was filed.

On 15 April, 2002, Initial Patent Examination Division mailed a Notice of Omitted Items in a Nonprovisional Application stating that the application had been accorded a filing date of 30 January, 2002, but that Figures 3 & 4 described in the specification appeared to have been omitted.

In response, on 23 August, 2001, one (1) sheet of drawings containing Figures 3 & 4 and the present petition were submitted. Petitioner asserts that the one (1) sheet containing Figures 3 & 4 was filed with the other application papers on 30 January, 2002, but was subsequently misplaced in the U.S. Patent and Trademark Office (Office). In support, a copy of petitioner's postcard receipt was supplied with the present petition. The postcard receipt shows an Office date stamp of 1/30/02 and containing the above-identified application number, and identifies the application by attorney docket number and inventor's name, and acknowledges receipt, *inter alia*, of 2

COPY

drawing sheets. Petitioners request that the application, including the drawings containing Figures 3 & 4, be accorded a filing date of 30 January, 2002.

The petition is dismissed because the one (1) sheet of drawings containing Figures 3 & 4 received on 10 May, 2002, was damaged by improper handling during the USPS mail decontamination process. While this situation is not the fault of petitioners, a new copy of the one (1) sheet of drawings containing Figures 3 & 4 must be submitted.

As all mail addressed to the USPTO via the 20231 ZIP code is being irradiated, petitioners are encouraged to submit the drawings by one of the following means to avoid the irradiation process:

- (a) Express Mail (which is not being irradiated);
- (b) the USPTO's **temporary** address:

USPTO  
P.O. Box 2327  
Arlington, VA 22202

Petitioners are encouraged to use the Certificate of Mailing Procedures pursuant to 37 CFR 1.8 when mailing to this address;

- (c) Hand-carry to the Office of Petitions, or
- (d) Via courier (Federal Express, UPS, etc.)

The application will be retained in the Office of Petitions for a period of two (2) months to await petitioners' reply to this decision. If no renewed petition is timely filed, the application will be returned to the Office of Initial Patent Examination for further processing using only the papers present in the USPTO on the date of deposit.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner of Patents and Trademarks  
Box DAC  
Washington, D.C. 20231

By FAX: (703) 308-6916  
Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite CP4-3C23  
2201 South Clark Place  
Arlington, VA 22202

Application No. 10/060,159

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Telephone inquires should be directed to Petitions Attorney  
Douglas I. Wood at 703 308-6918.

A handwritten signature in cursive script, appearing to read "Beverly M. Flanagan", with a long horizontal flourish extending to the right.

Beverly M. Flanagan  
Supervisory Petitions Attorney  
Office of Petitions  
Office of the Deputy Commissioner  
for Patent Examination Policy



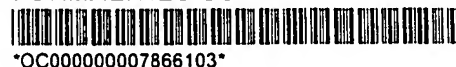
UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS  
UNITED STATES PATENT AND TRADEMARK OFFICE  
WASHINGTON, D.C. 20231  
www.uspto.gov

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/060,159	01/30/2002	A. Martin Lerner	LMA 0113 PUS1

CONFIRMATION NO. 8676

FORMALITIES LETTER



\*OC000000007866103\*

Sangeeta G. Shah  
Brooks & Kushman P.C.  
22nd Floor  
1000 Town Center  
Southfield, MI 48075-1351

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AUG 05 2002

OFFICE OF PETITIONS

Date Mailed: 04/15/2002

NOTICE OF OMITTED ITEM(S) IN A NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

A filing date has been accorded to the above-identified nonprovisional application papers; however, the following item(s) appear to have been omitted from the application:

- Figure(s) 3 & 4 described in the specification.

I. Should applicant contend that the above-noted omitted item(s) was in fact deposited in the U.S. Patent and Trademark Office (USPTO) with the nonprovisional application papers, a copy of this Notice and a petition (and \$130.00 petition fee (37 CFR 1.17(h))) with evidence of such deposit **must** be filed within **TWO MONTHS** of the date of this Notice. The petition fee will be refunded if it is determined that the item(s) was received by the USPTO.

II. Should applicant desire to supply the omitted item(s) and accept the date that such omitted item(s) was filed in the USPTO as the filing date of the above-identified application, a copy of this Notice, the omitted item(s) (with a supplemental oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such items), and a petition under 37 CFR 1.182 (with the \$130.00 petition fee (37 CFR 1.17(h))) requesting the later filing date **must** be filed within **TWO MONTHS** of the date of this Notice.

III. The failure to file a petition (and petition fee) under the above options (I) or (II) within **TWO MONTHS** of the date of this Notice (37 CFR 1.181(f)) will be treated as a constructive acceptance by the applicant of the application as deposited in the USPTO. **THIS TWO MONTH PERIOD IS NOT EXTENDABLE UNDER 37 CFR 1.136(a) or (b).** In the absence of a timely filed petition in reply to this Notice, the application will maintain a filing date as of the date of deposit of the application papers in the USPTO, and original application papers (i.e., the original disclosure of the invention) will include only those application papers present in the USPTO on the date of deposit.

In the event that applicant elects not to take action pursuant to options (I) or (II) above (thereby constructively electing option (III)), amendment of the specification to renumber the pages consecutively and cancel incomplete sentences caused by any omitted page(s), and/or amendment of the specification to cancel all references to any omitted drawing(s), relabel the drawing figures to be numbered consecutively (if necessary), and correct the references in the specification to the drawing figures to correspond with any relabelled drawing figures, is required. Any drawing changes should be accompanied by a copy of the drawing figures showing the proposed changes in red ink. Such amendment and/or correction to the drawing figures, if necessary, should be by way of preliminary amendment submitted prior to the first Office action to avoid delays in the prosecution of the application.

COPY



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*A copy of this notice MUST be returned with the reply.*

  
\_\_\_\_\_  
Customer Service Center  
Initial Patent Examination Division (703) 308-1202

PART 2 - COPY TO BE RETURNED WITH RESPONSE